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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,671	05/26/2000	Anthony A. Shah-Nazaroff	042390.P6484D1	9195

7590 06/01/2005

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EXAMINER
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BUI, KIEU OANH T

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/580,671

**Applicant(s)**

SHAH-NAZAROFF ET AL.

**Examiner**

KIEU-OANH T. BUI

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                                 |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/21/2004</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --*

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

2. Claims 1-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (U.S. Patent No. 6,539,548 B1/ or "Hendricks" hereinafter).

Regarding claim 1, Knee discloses "a method comprising: receiving information regarding a plurality of different entertainment programs and a plurality of different upgraded media features associated with each entertainment program" (Figs. 14-16 shows menus of available programs and different upgraded media features associated with each program, i.e., special interest channels has 16 selections, promos, data stream within available menu 244 received from sources as illustrated in Figures 2 & 3); "displaying at a user terminal a list of entertainment programs and, for each entertainment program, a plurality of different upgraded media features" (as shown in Figs. 25a, 25b, 25c, 25d, programs are displaying to the user in "basis", "basic plus", "economy" and "Ala Carte and Premium" as well as choices for "High Definition Services" as upgraded features for regular programs; in addition, for same channels, the user can choose to select either analog subscription services or digital services, or HDTV

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services as upgrade features for same entertainment programs, refer to Figs. 14 & 15, 31A & 31B, and col. 38/line 44 to col. 39/line 8); “transmitting an entertainment program selection together with one or more upgraded media feature selections from the displayed plurality to an entertainment program provider; receiving the selected entertainment program with the selected upgraded media features”, i.e., the user selects their choice and the service provider receives the request and provides the service to the user (Fig. 27b for “Hit Movies” at the user’s command, Figs. 27c-27f for channels selected from different programs, and Fig. 31b as HDTV services are provided per the user’s request, see more at col. 36/line 19 to col. 37/line 19, and col. 38/line 43 to col. 39/line 8).

As for claim 2, in further view of claim 1, Hendricks further discloses “wherein receiving information comprises receiving information regarding costs for each of the plurality of different upgraded media features and wherein displaying comprises displaying the costs” (Figs. 27c to 27g, Fig. 31b for HBO HDTV, and Fig. 33c for interactive digital services with the cost, see more at col. 36/line 58 to col. 37/line 8 & col. 38/lines 44-60).

As for claims 3 and 4, in further view of claim 1, Hendricks further discloses “comprising: receiving an entertainment selection and an upgraded media feature selection from a user through the user terminal; and wherein transmitting the selections comprises transmitting the selections received from the user” and “wherein the user selection is received by interpreting signals transmitted from a user infrared transmitter”, i.e. the user uses a conventional remote 900—inherently understood using infrared signals--for selecting programs and menus from the headend via cable set top box 220 at the user terminal 222 (as shown in Fig. 3, and col. 12/line 55 to col. 13/line 14 for a user remote controller).

As for claim 5, in further view of claim 1, Hendricks further suggests “wherein the plurality of different upgraded media features comprises at least one of video resolution upgrades, audio quality upgrades, audio channel upgrades, a recordable version, and an increased access rate for an interactive event”, i.e., at least video resolution upgrades or audio channel upgrades or CD recordable for storage are addressed (Fig. 31b for HDTV services; Fig. 33c for interactive digital service upgrade for local storage, see col. 41/lines 8-14; and Figs. 35a-35e for digital music audio quality and channel upgrades).

As for claim 6, in further view of claim 1, Hendricks further discloses “wherein receiving information comprises receiving information regarding available programming transmission sources for the plurality of different upgraded media features and wherein displaying comprises displaying an identification of the programming transmission sources” (Fig. 31b for HBO, ShowTime are identification of sources for HDTV; and Fig. 35 for the source of digital music from a performer Rachmaninoff).

As for claim 7, in further view of claim 6, Hendricks further discloses “wherein the programming transmission sources comprise at least one of local television stations, local radio stations, satellite broadcasters, coaxial cable broadcasters, and interactive sites on the Internet” (Fig. 1, and col. 6/line 25 to col. 7/line 7 for cable coaxial, optics, satellite, local broadcast stations; and col. 41/line 15 to col. 43/line 58 for interactive services including the Internet and local radio stations).

As for claim 8, in further view of claim 7, Hendricks further discloses “wherein the programming transmission sources further comprise at least one of video tape, video disk and audio disk” (col. 28/lines 10-29).

As for claim 9, in further view of claim 1, Hendricks further discloses “wherein receiving information comprises receiving information from a server system that is in communication with a plurality of programming transmission sources and wherein transmitting the selections comprises transmitting the selections to the server system” (col. 27/lines 20-40 for a server system within an operation center for delivering television and interactive services).

As for claim 10, in further view of claim 9, Hendricks suggests “wherein receiving the selected entertainment program comprises receiving the selected entertainment program with the selected upgraded media features from one of the plurality of programming transmission sources” (Fig. 14 shows a plurality of available programming transmission sources).

As for claim 11, in further view of claim 10, Hendricks further discloses “wherein the upgraded media feature comprises at least one of a video upgrade, an audio upgrade, a recordable version, and an increased access rate for an interactive event”, i.e., at least video resolution upgrades or audio channel upgrades or CD recordable for storage are addressed (Fig. 31b for HDTV services; Fig. 33c for interactive digital service upgrade for local storage, see col. 41/lines 8-14; and Figs. 35a-35e for digital music audio quality and channel upgrades).

As for claim 12, in further view of claim 1, Hendricks further discloses “wherein receiving the selected entertainment program comprises receiving the selected entertainment program from one of a plurality of programming transmission sources and the plurality of programming transmission sources include at least one of cable television, antenna reception, satellite reception, mini-dish satellite reception, telephone dial-up service, and Internet access” (Fig. 1, and col. 6/line 25 to col. 7/line 7 for cable coaxial, optics, satellite, local broadcast stations; and

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col. 41/line 15 to col. 43/line 58 for interactive services including the Internet and local radio stations).

As for claim 13, in further view of claim 1, Hendricks suggests “wherein receiving the selected entertainment program comprises receiving a token from an appropriate one of a plurality of programming transmission sources, the token enabling the reception of the selected entertainment program with the upgraded media feature”, i.e., a code is used as a token for identifying and enabling the reception of a selected program with the upgraded media feature (Figs. 6a & 6b for data format for a control program information signal, see more at col. 21/line 37 to col. 22/line 3).

Regarding claims 14-23, these claims for “a machine readable medium having stored thereon data representing sequences of instructions which when executed by a processor, cause the processor to: receive information regarding a plurality of different entertainment programs and a plurality of different upgraded media features associated with each entertainment program; display at a user terminal a list of entertainment programs and, for each entertainment program, the plurality of different upgraded media features; transmit an entertainment program selection together with one or more upgraded media feature selections from the displayed plurality to an entertainment program provider; receive the selected entertainment program with the selected upgraded media features” are rejected for the reasons given in the scope of claims 1-13 as disclosed in details above.

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Regarding claims 24-37, these claims for “a method comprising: transmitting information regarding a plurality of different entertainment programs and a plurality of different upgraded media features associated with each entertainment program to a plurality of client systems; receiving an entertainment program selection together with one or more upgraded media feature selections from at least one of the plurality of client systems; providing the client system with access to receive the selected entertainment program with the selected upgraded media features” and “a machine readable medium having stored thereon data representing sequences of instructions which when executed by a processor, cause the processor to: transmit information regarding a plurality of different entertainment programs and a plurality of different upgraded media features associated with each entertainment program to a plurality of client systems; receive an entertainment program selection together with one or more upgraded media feature selections from at least one of the plurality of client systems; provide the client system with access to receive the selected entertainment program with the selected upgraded media features” with same limitations are rejected for the reasons given in the scope of claims 1-13 as disclosed in details above.

### ***Response to Arguments***

3. Applicant's arguments filed on 10/27/04 have been fully considered but they are not persuasive.

Applicants argue that Hendricks does not teach or suggest the “upgraded media features” associated with each entertainment program. The Examiner disagrees because it is well known in the art and based on the Examiner’s actual experience through subscription to cable services and



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personal knowledge, that the television and cable services offer to the user for at least a substantial same number of channels either in analog or digital services, for example (every one knows), a CNN channel providing in analog for a less fee might be also offered in a standard digital service or HDTV for an enhanced feature (video and sound) for a relatively more expensive fee for better enjoying in visual and sound effects, please refer to Figs. 31a & 31b and col. 38/line 43 to col. 39/line 8 for HDTV. Hendricks further offers interactive services and other special services, refer to col. 31/lines 30-65 & col. 41/line 15 to col. 42/line 58, as well as offering the user a chance to record it, refer to col. 38/lines 12-34. Hendricks further offers to the user digital audio as CD quality while using the television, refer to Figs. 35a-35e and col. 43/lines 30-58.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., interactive effects, surround sound, etc., and selling Titanic with or without surround sound and the right to record it) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the Examiner disagrees with the Applicants' arguments and stands with the disclosure and teaching of Hendricks as disclosed in details in the previous office action and discussed in this final office action.

***Conclusion***

**4. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for Technology Center 2600 only)

**7.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant, can be reached on (571) 272-7294.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Kieu-Oanh Bui', with a long, sweeping horizontal line extending to the right.

Kieu-Oanh Bui  
Primary Examiner  
Art Unit 2611

KB  
May 18, 2005